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United States District Court  
Western District of New York

Jamie Lamphear  
Plaintiff

- against -

Correctional Officers E. Rozell  
C. Reppert, DR Canfield and  
Superintendent Napoli D.

Defendants  
In their individual and  
official capacity

42 USC 1983  
Amended Complaint  
Civil Action

12-cv-0175



Jury demanded  
Jamie Lamphear, Prose Plaintiff for the Complaint  
against defendant, E. Rozell, Corr officer, C. Reppert  
Corr officer, Superintendent D. Napoli and Doctor W.-  
Canfield alleges as follows:

1). This Honorable Court has jurisdiction over this  
action, under 28 USC 1331(3) and (4) the matters in  
controversy arose under 42 USC 1983

2). This Honorable Court has jurisdiction ~~pursuant to~~  
~~28 USC 1391(b)(2) because the~~ overall state pend-  
-ing Claims brought forth herein.

3). venue properly lies in this district pursuant  
to 28 USC 1391(b)(2) because the events given rise to  
this case of action occurred at Southport Correctional  
Facility, which is located within the western district of  
New York.

(2)

- Parties -

4). Plaintiff, Jamie Lamphear, is and was at all times relevant hereto prisoner in custody of New York Department of Corrections Southport Correctional Facility (Currently <sup>Ramapo</sup> Marcy Corr Facility)

5). Defendant, E. Rozell is and at all times relevant to the Complaint a Correctional Officer at New York Department of Corrections - Southport Correctional Facility

6). Defendant G. Reppert is at all times relevant to the Complaint a Correctional Officer at New York Department of Corrections Southport Corr Facility.

7). Defendant, D. Napoli was at all times relevant to this Complaint the Superintendent at New York Department of Corrections Southport Corr Facility.

8). Defendant W. Canfield was at all times relevant to this Complaint the (M.D.) Doctor at the New York Department of Corrections Southport Correctional Facility.



(3)

Statement of Facts

9) This Complaint arise from different occurrences as follows:

(1) July 7<sup>th</sup> 2009

(2) July 14<sup>th</sup> 2009

10) First occurrence on July 7<sup>th</sup> 2009, while plaintiff was in the process of being escorted to the Showers, C.O. (Correctional officer) E. Rozell placed mechanical restraints on Plaintiff and upon cell door opening plaintiff was told to step back and take A down to the Showers. E. Rozell poked me in the back after seeing an inmate being escorted on to the Company - and stated to bring it back into my cell. which i complied. When cell door was closed back plaintiff's hands was pushed out the fuel up slot for removal of the mechanical restraints. Plaintiff stated to defendant "that he has never had any problems at Southport before". Defendant in turn removed one handcuff and twisted the other restrained hand & up and away, and "stated do you want A problem." Plaintiff said nothing and filed A Grievance SPT-47275-09 Code 49

11) Second occurrence on July 14<sup>th</sup> 2009, During Showers officers E. Rozell and G. Reppert where the escorting officers for Showers. upon arriving at Plaintiff's cell

(4)

- 11) Mechanical restraints was placed on plaintiff for escort to showers. Plaintiff's cell door was opened, at which time both officer, rushed into plaintiff's cell, knocking him to the floor and repeatedly struck plaintiff upon his back, rib cage, head and face with closed fists and knees. The assault on plaintiff by Correctional officers E. Rozell and G. Ruppert was performed for no other purpose than retaliation against the plaintiff for exercising plaintiff's rights. Filing A Grievance regarding officer E. Rozell abuse ~~abuse~~ unprofessional conduct on 7-9-09 Defendants E. Rozell and G. Ruppert's conduct, was rather crude and unusual punishment in violation of plaintiff's Constitutional rights First Amendment (1)(8) Both above officers used excessive force in retaliation for prior grievance.

12) I advised Superintendent Napoli by way of Grievance Complaint on 7-9-09 about plaintiff's unjust treatment by Defendant on 7-7-09 during showers (harassment) Code 49. In hopes of being protected - instead I, plaintiff was assaulted in retaliation by both officers.



(5)

- 12 - one of whom was named in  
Grievance on 7-7-09 - 7 days later Plaintiff  
is beat up 7-14-09 - Superintendent Napoli  
done nothing to prevent Plaintiff from being  
assaulted - Therefore he's violated my  
Constitutional right - as well - Failure to protect  
8th Amendment.

13)

Grievances filed and exhausted by Plaintiff

July 7<sup>th</sup> 2009 Spt - 47275-09 Code(49)

July 14<sup>th</sup> 2009 Spt 47326-09 Code(49)

July 14<sup>th</sup> 2009 Spt - 47344-09 Code(22)

14) The Plaintiff re-allege and incorporate  
by reference to these allegations/Facts in  
paragraphs (1) through (19) and states that  
has fully exhausted his grievances on  
each and everyone of these Claims.

15) The Disciplinary Confinement the Plaintiff  
has faced due to the defendants concocted  
misbehavior report on 7-14-09, which  
immediately sent Plaintiff to level one

(6)  
- 15) Was overwhelming. The Stress Plaintiff endured was extraordinarily intense - restricted - No showers, Recreation hair Cuts - fully restrained visits - PAN for the sole purpose of covering up misconduct by the defendant, - abuse that has gone on during showers in Southport for many years - which will be proved at trial. Clearly Plaintiff has suffered mental anguish.

16) First Case of Action  
EXCESSIVE FORCE

Plaintiff, Jamie Lamphear, allege and incorporate by reference to his allegations in paragraphs one (1) through nineteen (19) as as fully restated herein:

17) Defendant Gil Ruppert violated Plaintiff Jamie Lamphear's Constitutional rights to be free from retaliation, excessive force and cruel and unusual punishment on July 14<sup>th</sup> 2009 by assaulting the plaintiff in a sadistically and malicious manner.



(7)

17) Defendant C. Ruppert violated plaintiff Jamie Lamphear's Constitutional rights to be free from retaliation, excessive force, cruel and unusual punishment on July 14<sup>th</sup> 2009 by assaulting the plaintiff in a sadistically and malicious manner.

18) Defendant W. Cantelero (Dr.) violated the Plaintiff's Constitutional rights to be free from cruel and <sup>deliberate and cruel</sup> unusual punishment on July 14<sup>th</sup> 2009 - ~~8 September~~ <sup>August</sup> 19<sup>th</sup>, 2009 or so by being deliberately indifferent to plaintiff's medical needs by not properly examining plaintiff or prescribing a medication that would dull the pain plaintiff was in due to his fractured ribs.

19) Defendant E. Rozell violated plaintiff's Constitutional rights to be free from retaliation, excessive force, cruel and unusual punishment on July 14<sup>th</sup> 2009 by assaulting the plaintiff in a sadistically and malicious manner.

(8)

20) Defendant, D. Napoli violated Plaintiff Jaime Lamphear's Constitutional rights to be Free From Retaliation, excessive Force and unusual punishment by his failure to protect / act on first Code (99) in time - Therefore he directly participated in these violations.

### Injuries Sustained

As a result of defendant's assault, use of excessive force & deliberate indifference - The Plaintiff suffered numerous bruising, swelling, (2) fractured ribs, along with mental and emotional distress. See attached exhibits -



9

## Damages

WHEREFORE, the plaintiff request that his honorable Court Declare the acts complained herein are in violation of plaintiff's rights under the Constitution and laws of the United States.

Enter judgment in favor of Plaintiff for actual Compensatory including Consequential damage in the amount of fifty thousand dollars (\$50,000) against defendants jointly and severally to compensate plaintiff for his pain and suffering.

Enter judgment for the Plaintiff in the amount of thirty thousand dollars (\$30,000) against defendants with the exception of defendant D. Napoli, against whom punitive damages of fifty thousand dollars (\$50,000)

Award the plaintiff the cost of this action, including ~~also~~ reasonable Attorney Fees if Attorney is appointed to plaintiff.

18

Amended Complaint  
Civil Action  
12-CV-0175

Sworn and Subscribed  
to before me on

This 4th of June 2013

County of Oneida

BRENT L. ROGERS  
Notary Public in the State of New York  
Qualified in Madison County 01RO6202020  
My Commission Expires March 9, 2017

Brent L. Rogers  
Notary Public  
County of Oneida

Joe Jones  
Pro. Sec.  
Janice Camphear  
Marcy Corr Facility  
Box 3600  
Marcy New York  
13403-3600



Affidavit of Service  
State of New York  
County of ONEIDA

I, Jamie Lamphear being duly Sworn, deposes and Says that I am the plaintiff herein and that on the date of notarization indicated below, I have placed in a Sealed post-paid envelope true and exact copy of the enclosed papers, Identified as: Amended Complaint 12-CV-0175 and Affidavit of Service

One original  
State of New York  
Clerk vs. Western District  
Courthouse - Buffalo NY  
14202-3350

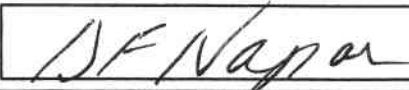
One duplicate  
Kim Murphy  
Assistant Attorney General  
State of New York  
The Capital  
Albany, N.Y. 12224

Sworn and Subscribed Respectfully  
To before me on Submitted  
This day of June 2013  
Notary Public  
County of ONEIDA

Jamie Lamphear  
marcy corrao  
Box 6600  
marcy NY 13403

EXHIBIT  
A-



FORM (2133) STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES  <u>INMATE GRIEVANCE PROGRAM</u>  <b>SUPERINTENDENT</b>	<u>GRIEVANCE NUMBER</u> <b>SPT-47275-09</b>	<u>DATE FILED</u> <b>7/9/2009</b>
	<u>FACILITY</u> <b>SOUTHPORT</b>	<u>CLASS</u> <b>I</b>
	<u>TITLE OF GRIEVANCE</u> <b>Harassed by officer</b>	<u>CODE</u> <b>49</b>
	<u>SUPERINTENDENT'S SIGNATURE</u> 	<u>SUPT. DATE</u> <b>8-6-09</b>
<u>GRIEVANT</u> <b>Lamphear, J.</b>	<u>DIN.#</u> <b>02-B-0336</b>	<u>HOUSING-UNIT</u> <b>A-1-19</b>

**DESCRIPTION OF PROBLEM**

Grievant states on 7/7/09 he was harassed by officer M... who twisted his arm while it was handcuffed and then denied him a shower.

**ACTION REQUESTED**

No action requested.

**SUPERINTENDENT'S RESPONSE**

A THOROUGH INVESTIGATION OF THIS GRIEVANCE WAS CONDUCTED BY AN ASSIGNED SECURITY SUPERVISOR.

GRIEVANT WAS INTERVIEWED BY SGT. BARBER ON 7/15/09, IN "A" BLOCK'S 1st FLOOR HEARING ROOM AT APPROXIMATELY 3:30PM. HE REITERATED HIS ALLEGATIONS AS FACTUAL, AND OFFERED NO WITNESSES TO SUPPORT HIS ALLEGATIONS. SGT. BARBER IDENTIFIED C.O. ROZELL AS THE ALLEGED OFFICER. THERE IS NO C.O. MOZELL EMPLOYED AT SOUTHPORT.

C.O. ROZELL WHO WORKS THAT AREA HAS GONE ON RECORD AS DENYING ALL ALLEGATIONS AGAINST HIM.

AFTER REVIEW, I HAVE CONCLUDED THAT NO EVIDENCE WAS PRESENTED WHICH WOULD SUBSTAINATE THIS GRIEVANT'S ALLEGATIONS. AS SUCH, THIS GRIEVANCE IS DENIED

If you wish to refer the above decision of the Superintendent, please sign below and return to the Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. An exception to the time limit may be requested under Directive 4040, Section 701.6(g). Please state why you are appealing this decision to CORC.

I'm appealing this response because I feel there wasn't a thorough investigation & conducted - had there been I would never have been assaulted on a later date - it's retaliation!

jamie lamphear  
Grievant's Signature

OFFICER Rozell was responsible for the harassment & assault 7-7-09

8-10-09  
Date

7-14-09

Grievance Clerk's Signature

Date

EXHIBIT

- B -





EXHIBIT

- C -

# ASSOCIATED RADIOLOGISTS

of the  
FINGER LAKES  
P.C.

100 E. 14th Street  
Elmira Heights, NY 14903

## ArnotHealth

600 Roe Avenue  
Elmira, NY 14905  
(607) 737-4148

PAID  
8/21/09

A-1-19

02B0336

Printed - 8/20/2009 8:04:21AM

### REPORT OF RADIOLOGY SERVICE

Page 1

Patient: LAMPHEAR, JAMIE  
MRN: 489960  
DOB: 09/29/1975

Location: CFS Bed:  
Ordering MD: Canfield, Wesley

Exam Date	Accession #	Procedure/Reason For Study
8/19/2009	6298007	Ribs / pain

### \*\*\* Final Report \*\*\*

PROCEDURE: Left ribs 3 views including PA at 1045 hours portable at prison.

FINDINGS: There are slightly displaced fractures of the left 8th and 9th ribs laterally clearly seen on one view only which is the external rotated oblique view. The underlying lung is clear and well aerated. Heart, hilar and mediastinal structures are normal. Right lung is clear.

### IMPRESSION:

Fractures of the left 8th and 9th lateral ribs.

Signing Radiologist: Acosta-MD, Edwin

Dictated on: 2009/08/19 18:02:33.56

Attending MD: Canfield, Wesley  
Admitting MD: Canfield, Wesley

REVIEWED BY (init.) FS / 8/21/09 DATE

- ☐ NO ACTION IS REQUIRED AT THIS TIME  
☐ REPORT TO SICK CALL  
☒ FOLLOW UP WILL BE ARRANGED WITH A PRIMARY PROVIDER  
☐ FOLLOW UP WILL BE ARRANGED WITH A SPECIALIST  
☒ NOTIFICATION FORM COMPLETED AND DISTRIBUTED

FS 8/21/09